IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 54 OF 2007
IN
CRIMINAL APPEAL NO. 71 OF 2007

Mr. Suresh @ Rashtrya
Darekar Bhosale ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Madhav J. Jamdar for applicant.
Mrs.S.D. Shinde, APP for State.

CORAM: B.H. MARLAPALLE & R.S. MOHITE,JJ.

Date : February 21, 2007.

P.C.:

1. The applicant-accused has filed Criminal Appeal No. 71 of 2007 against the order of conviction and sentence passed against him by the learned III Addl. Sessions Judge at Satara on 8/1/1999 for the offences punishable under Sections 302, 394 and 397 read with Section 34 of IPC but the said appeal is beyond time and, therefore, this application for condonation of delay.

2. As per the office note the delay caused is of 7 years and 17 days. As per the applicant he was

doing labour work and financially very weak. He is also uneducated. While he was facing trial in Sessions Case No. 31 of 1997 his relations were helping but thereafter when he was convicted and sentenced, he had no source of help and, therefore, he could not file an appeal in time. Mr. Jamdar has also relied upon an order passed by this court on 30/6/2006 in Criminal Application No. 2406 of 2005 condoning the delay of 5 years and 239 days in filing an appeal against the order of conviction and sentence and the applicant therein is the co-accused of the present applicant and was in jail for the last 10 years. In any case we do not deem it appropriate to defeat a statutory appeal on technical ground of delay and more so when the appeal of the co-accused has been admitted (Cri.Appeal No. 395 of 2005). We are of the considered view that the appeal of the present applicant also deserves to be considered on merits.

3. Hence the delay is condoned and the application is allowed in terms of prayer clause (a)

(R.S. Mohite, J.) **(B.H. Marlapalle,J.)**